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COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Thirteenth session

SUMMARY RECORD OF THE 255th MEETING

Held at Headquarters, New York,
on Wednesday, 2 February 1994 at 3 p.m.

Chairperson: Ms. CORTI

CONTENTS

Ways and means of expediting the work of the Committee on the Elimination of Discrimination against Women

Implementation of article 21 of the Convention on the Elimination of all Forms of Discrimination against Women

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The meeting was called to order at 3.35 p.m.

WAYS AND MEANS OF EXPEDITING THE WORK OF THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Report of working group I (CEDAW/C/1994/WG.I/WP.1/Rev.1)

1. Ms. LIN Shangzhen, speaking as the Chairperson of working group I, introduced its report. She added that the working group had approved the provisional agenda for the fourteenth session with the inclusion of one additional item entitled: "Contribution of the Committee on the Elimination of Discrimination against Women to international conferences".

2. The CHAIRPERSON invited the Committee to consider the report section by section. Noting that the appropriate amendment was not available, she suggested that discussion on section A should be deferred until a later meeting.

Sections B, C, D and E

3. Sections B, C, D and E were adopted.

Section F

4. Ms. AOUIJ said that, in the French version, the word "treizième" in the second paragraph should be corrected to "quatorzième".

5. Mr. MATHIASON (Deputy Director, Division for the Advancement of Women) said that that error also occurred in the English version: the word "thirteenth" should be changed to "fourteenth".

6. Ms. TALLAWY proposed that the rules enumerated in the text should be omitted. The line should simply read "The draft should address the rules that need to be changed", so that the selection of rules to be assessed would be left open.

7. The CHAIRPERSON said that she fully supported that proposal. She took it that the Committee wished to adopt section F as amended.

8. Section F, as amended, was adopted.

Section G

9. Ms. FORDE said that the objection she had raised at an earlier meeting to the decision described under section G was neither frivolous nor simply a reaction against innovation. The idea of making an assessment of a State party's report after the discussion stage and directing it to the State concerned had been debated exhaustively during the Committee's session in 1987. With the Committee divided on its authority to provide such an assessment under article 21 of the Convention, a legal opinion had been sought. That legal opinion, besides appearing to distinguish between suggestions and recommendations, led her to conclude that suggestions should be made to an

(Ms. Forde)

individual State during the period of dialogue so that the State concerned had an opportunity to respond if it so desired. Furthermore, the Committee had accepted that suggestions and recommendations should be submitted as part of its report.

10. While convinced that the Committee must be open and firm in its dialogue with States parties, she based her stand on a previous decision reached by the Committee after extensive informed argument. Such decisions should perhaps be borne in mind before reaching sweeping conclusions. The Committee had established its reputation not by slavishly adopting the practices of other bodies but by selecting the approach which best served the particular issues it had to address. Its aim should be to ensure impartial treatment of all countries' reports, within the parameters established by the Convention.

11. Mr. MATHIASON (Deputy Director, Division for the Advancement of Women) said there had indeed been a debate in 1987 concerning the type of comments permissible under article 21 of the Convention. He read out the related statement by the representative of the Office of Legal Affairs (CEDAW/C/SR.68, paras. 31-35). The conclusion had appeared to be that recommendations could not be addressed to individual States, while suggestions, being of a less formal nature, could be so addressed.

12. The CHAIRPERSON said the Human Rights Committee used the terminology "concluding remarks". It seemed to her to be more a question of wording than of legal argument.

13. Ms. CARTWRIGHT said she did not believe article 21 of the Convention precluded the Committee from addressing remarks to States parties, provided such remarks were duly reflected in the Committee's report. She interpreted the term "general recommendation" as providing for evaluation of a country's report rather than as a recommendation addressed to all States parties.

14. Mr. MATHIASON (Deputy Director, Division for the Advancement of Women) noted that article 21 provided for "comments, if any, from States parties". While in the past there never had been any such comments, they would, if submitted, be most appropriately placed in an annex to the Committee's report.

15. Ms. FORDE said she could recall one instance of a comment by a State party.

16. Ms. SCHÖPP-SCHILLING asked whether Ms. Forde's concerns had been satisfied. The only innovation arising from the Committee's decision was based on the practice of other human rights bodies.

17. Ms. FORDE said her objection did not alter the fact that the Committee had taken a decision. She merely wished to sound a note of caution.

18. Ms. NIKOLAEVA felt there was agreement on the substance of the issue. The Committee should simply respect the terminology as set out in article 21, which provided for "suggestions", "general recommendations" and "comments".

19. Ms. CARTWRIGHT, noting that the equivalent provisions of the International Covenant on Civil and Political Rights differed from those of the Convention, wondered whether the Committee should seek further guidance on how to proceed.

20. Ms. SCHÖPP-SCHILLING suggested that further discussion of section G should be postponed until a definitive legal comparison had been made with the equivalent provisions of the International Convention on the Elimination of All Forms of Racial Discrimination.

21. Ms. TALLAWY said that the decision to provide concluding comments required neither comparison with the provisions of the International Covenant on Civil and Political Rights nor a request for a legal opinion.

22. After a procedural discussion in which Ms. SINEGIORGIS, Ms. ABAKA and Ms. FORDE took part, the CHAIRPERSON invited the Committee to adopt section G.

23. Section G was adopted.

Section H

24. Ms. SCHÖPP-SCHILLING said that, since the Committee did not know whether it would be given additional meeting time, it should reduce the number of reports to be considered at the fourteenth session, particularly since it would need as much time as possible at that session to prepare for the Fourth World Conference on Women.

25. Ms. SINEGIORGIS said that the Committee should authorize the Secretariat to reduce the number of reports if the additional meeting time was not granted.

26. Mr. MATHIASON (Deputy Director, Division for the Advancement of Women) said that the extension of the current session had been approved to enable the Committee to consider reports of States parties; furthermore, on one occasion the Committee had considered reports from 12 States parties in a two-week session.

27. It would not be known until later in the year whether the two three-week sessions had been approved. However, if States parties had been informed that they would be presenting their reports, it would be very difficult to inform them later that they would not be doing so. The list of reports therefore had to correspond to the minimum number of States parties that the Committee intended to invite to present reports.

28. Ms. BUSTELO said that the Committee should take three reports off the list and authorize the Secretariat to reinstate them if the session was extended.

29. Mr. MATHIASON (Deputy Director, Division for the Advancement of Women) said that, in the event that a second session was approved, the Committee would undoubtedly have about six months between the sessions so that at the first session it would be able to select the reports which it wanted to consider at the second session. The Committee might wish to determine which reports it would definitely take up and then make a second selection if it was granted two sessions.

30. Ms. GURDULICH DE CORREA said that if the Committee had considered the 13 reports at the current session, it should consider at least that number at the next session.

31. Mr. MATHIASON (Deputy Director, Division for the Advancement of Women) said that at its previous session the Committee had approved a procedure for establishing a reserve list of reports because in the past some States parties had not been able to present their reports. The Committee could, however, decide not to have a reserve list and then, if a State party was unable to present its report, it would simply not be replaced. In that way, the number of reports would be reduced without the Committee having to reduce it. Although there was a risk of all States parties being present, there had not been a single session at which all States parties had actually presented their reports. The entire paragraph appearing after the list of third periodic reports, and the reserve list, could then be deleted.

32. Ms. SCHÖPP-SCHILLING said that that risk was too great and that such a procedure would detract from the quality of the Committee's work; the Committee could argue that it needed more meeting time in order to consider reports in greater depth because of the far-reaching economic and political changes that had taken place in some countries.

33. The CHAIRPERSON said she took it that the Committee agreed to Mr. Mathiason's suggestion.

34. It was so decided.

35. Section H, as amended, was adopted.

General comments on the report

36. Ms. GARCIA-PRINCE said that there should be a reference in the report to the time-limit for the submission of addenda to reports.

37. Mr. MATHIASON (Deputy Director, Division for the Advancement of Women) said that a time-limit of 1 September had been decided upon by the Committee at its previous session; in the past, the Secretariat had been flexible about that time-limit, but in 1995, it would adhere strictly to it.

38. Ms. GURDULICH DE CORREA said that the list of experts who would participate in the pre-session working group should be included in the report.

39. Mr. MATHIASON (Deputy Director, Division for the Advancement of Women) said that both members of the East European Group would be leaving the Committee; when such a situation had arisen in the past, the Chairperson had designated a new member to participate in the pre-session working group.

40. Ms. GURDULICH DE CORREA said that it would be better to draw on existing members for the pre-session working group, since some experience of the Committee was required.

41. The CHAIRPERSON said that if the Committee was in agreement, she felt that it would be better to follow that course.

42. It was so decided.

43. Ms. GARCIA-PRINCE recalled that the Committee had requested the Secretariat to prepare an information sheet for the benefit of new members; that should be mentioned in the report.

44. Ms. SCHÖPP-SCHILLING said that the Secretariat should also provide to new members a copy of the manual on reporting for States parties.

45. The CHAIRPERSON said that a reference could be included in the report.

IMPLEMENTATION OF ARTICLE 21 OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Report of working group II (CEDAW/C/1994/WG.II/WP.2/Rev.1)

46. Ms. CARTWRIGHT, speaking as the Rapporteur of working group II, introduced its report.

47. Ms. GARCIA-PRINCE said that, despite its excellent commentaries, the report lacked specific recommendations. Experience had shown that States attached more weight to recommendations than to commentaries. In view of the gravity of the question of the relations of power within the family, she would have preferred to see concrete recommendations on that subject.

48. Ms. CARTWRIGHT said that, while she would be willing to revise the recommendations along the lines that the Committee might suggest, the revised report would not be ready during the current session because of the time required for its translation into the other official languages.

49. Ms. NIKOLAEVA said that, because of the conditions under which the experts had had to work, the document was not concise enough and contained frequent repetitions. The question of family relations was an extremely delicate one and its consideration required much broader participation by members than there had actually been. Articles 9, 15 and 16 raised many questions which should be discussed. The Committee therefore should not adopt the draft report at the current meeting.

50. Ms. SCHÖPP-SCHILLING asked to what extent the original document on which the current report was based had been circulated in preparation for the International Year of the Family (1994).

51. Mr. MATHIASON (Deputy Director, Division for the Advancement of Women) said that the text adopted the previous year had been transmitted to the General Assembly, the Economic and Social Council and the Commission on the Status of Women.

52. Ms. NIKOLAEVA said she wondered why the Committee was currently reviewing a document which it had already adopted the previous year.

53. Ms. GARCIA-PRINCE, referring to the paragraph entitled "Legislation" in the section of the report containing the recommendations, recalled how the Committee had recently been apprised of legal rulings by national judicial bodies which purported to show that national legislation did not violate the provisions of the Convention. It was for that reason that the Committee's recommendations should be comprehensive.

54. Ms. BUSTELO said that the draft recommendations should be read in the context of the overall report, rather than separately.

55. Ms. SCHÖPP-SCHILLING said that even though she shared some of the concerns expressed by Ms. García-Prince, the Committee should nevertheless adopt the draft report. Recommendations which were too explicit might create problems for the Committee in future, since it was impossible to foresee future developments. It was therefore more prudent to have shorter and more general recommendations.

56. Ms. ABAKA supported that view. She also said that the words "and other extremist" should be included in the second paragraph of the section entitled "Reservations" after the word "fundamentalist".

57. Ms. GURDULICH DE CORREA observed that, in its references to marriage and pregnancy, the text currently before the Committee had omitted the question of age, which it had considered in its recent reports. In her opinion, the report should reflect the Committee's view that the marriageable age for women should be eighteen years. She was also of the opinion that the Committee's recommendations should be more explicit and that its views on other issues should be more clearly stated.

58. Ms. GARCIA-PRINCE said that she had difficulty in understanding the comments in the report on the question of abortion, which was of vital importance to the issue of the subordination of women in the family. She had particular difficulty with the reference in the commentary on article 16 (1) (e) to the interruption of pregnancy by the Government.

59. Ms. CARTWRIGHT pointed out that the language used in the current text was the same as that used in the previous report on which it was based. The working group had not referred to abortion but rather to the interruption of pregnancy. The reference to the Government had been included after the Committee had heard the report of the Government of Romania.

60. Ms. GARCIA-PRINCE said that, if the intention of the Committee was to summarize the original text, it should not include ideas which were of critical importance but which had not been discussed by the Committee.

61. Ms. BUSTELO noted that the Committee was reopening the discussion on a text which had been adopted the previous year in plenary meeting. The real question concerned the right of women to bear or not to bear children. That issue had been reflected with the utmost diplomacy in the text before the Committee.

62. Ms. GARCIA-PRINCE said that she could not recall any discussion by the experts on the interruption of pregnancy and would have no difficulty in reopening the discussion on the subject.

63. The CHAIRPERSON recalled that the Committee had endorsed the substance of the report of the previous year. It had been noted, however, that that report was long and often confusing. Ms. Cartwright, who was familiar with the background of the discussions, had therefore been selected to draft a more concise text. Although she had done so on time, the text had become available late as a result of delays in translation. It was for the Committee to decide whether it wished to adopt the new text.

64. Ms. GURDULICH DE CORREA said that, while she agreed with the Chairperson on the question of procedure, there was nevertheless a problem of substance to resolve. The Committee was considering a text which was different from the one it had previously discussed. The reference to the interruption of pregnancy, for example, had not appeared in the previous year's report.

65. Ms. SINEGIORGIS asked whether, given the reservations of certain members, it would be prudent for the Committee to adopt the draft recommendations at the current meeting. It might perhaps be better to postpone the decision to the following meeting.

66. Ms. AOUIJ agreed with that suggestion. She wished to point out, however, that a reference to the interruption of pregnancy was contained in the recommendations of the previous year's report.

67. Ms. GARCIA-PRINCE said that her objections were to the style of the recommendations. She would prefer to have a few concrete recommendations which were clearly stated and which would not need to be changed over time. It was quite possible, for example, that in a few years the Committee would call for changes in the norms governing polygamy.

68. Ms. BUSTELO suggested that proposals for changes to the text should be submitted to Ms. Cartwright in writing.

69. Ms. UKEJE said that she supported the document before the Committee, since the differences between the two versions were not substantive.

70. The CHAIRPERSON said that the Committee would postpone its final decision on the draft report until its next meeting.

The meeting rose at 6.30 p.m.